

TO: William Meno

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2-17-01



Kalamazoo River
Protection Association

Environmental activism since 1975
Protecting the Kalamazoo River Watershed and the Great Lakes

EPA Region 5 Records Ctr.



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February 19, 2001

Copies: Wendy Conway
Beth Reimer
Tom S. Hart
Eileen Furey, etc

Mr. Brian von Gunten, Project Manager/Kalamazoo River Site
MDEQ, Environmental Response Division/Superfund Section
P. O. Box 30426
Lansing, Michigan 48909-7926

WFM
2/21/01

**RE: Comments and recommendations on the Draft Remedial
Investigation Feasibility Study (RI/FS)-Kalamazoo River
Superfund Site and Proposed Plan**

Dear Mr. von Gunten,

I am writing to you today on behalf of the Kalamazoo River Protection Association (KRPA), which for over two decades has advocated a meaningful cleanup of the PCB contaminated waste in Kalamazoo River. The KRPA with over 24 years of experience at this site brings a substantial knowledge and history of this site as well as representing a substantial number of stakeholders. Please review and include the following comments regarding the Phase One RI/FS on the Allied Paper, Inc./Portage Creek/Kalamazoo River site and other matters as well (see enclosed resolution). Also, please take the requested action(s) regarding the restoration of this major state and national treasure, the Kalamazoo River.

I have also enclosed letters from some 45 individuals of the 300 that attended the February 7, 2001 meeting in Plainwell. I have forwarded these letters to you to be a part of the public record and to demonstrate first hand the broad based support for our position. Please respond to each letter as a separate letter to you. These letters were signed during the meeting. Many at that meeting indicated that they would be writing their own personal letter. I am sure that you will receive substantial correspondence regarding this major Great Lake's issue.

As you know, the enclosed resolution has been passed by 9 local municipalities along the river in Kalamazoo and Allegan Counties at this time. I expect that many more communities will strongly support these recommendations in the future as presentations

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are made in the next few weeks. The Allegan County Board of Commissioners, the Cities of Allegan, Fennville, Saugatuck, Village of Douglas, the Township's of Saugatuck and Trowbridge in Allegan County and Comstock and Cooper Township in Kalamazoo County have passed the resolution (copy enclosed). In addition, numerous local, state and national environmental groups have indicated their support as well.

Since being placed on the National Priorities List under the Superfund list in 1990, the State of Michigan has failed to provide the needed leadership. For example, only one full time employee was assigned to this site, even though the salaries of MDEQ staff on this project would be reimbursed by the liable parties. This individual was later removed from the site, at the polluter's request, and hasn't been allowed to participate in internal reviews of the RI/FS, despite 10 years of direct knowledge of the site as the former project manager. This site, an 80 mile stretch of the Kalamazoo River including 3 miles of Portage Creek in Kalamazoo as well as four large landfills in/or along the banks of the Kalamazoo River site needs at least 6 of the best MDEQ staff working full time at the site. I have followed progress (exceedingly slow action) at this site, as have many others, through over 100 meetings in the last decade alone and know first hand the lack of meaningful leadership at this Superfund Site. Frankly, the legacy of maximum administrative delay as this site is shocking and perplexing on the part of the MDEQ economically driven administration. If the river was cleaned up and the Fishery/Recreational Management Plan for the river became a reality, Allegan and Kalamazoo County would gain over 10 million of dollars in tourism related revenue annually. I am sure that you share our views that a clean environment concerning the Kalamazoo River and the Great Lakes State is of paramount concern, particularly when there are economic benefits.

Also, note that the lower Kalamazoo River, approximately 23 miles downstream of Lake Allegan, was designated a Wild Scenic River by the Natural Resources Commission in 1981 under Michigan Natural Rivers Act (Act 231, P.A. 1970). That designation requires that the MDEQ take all needed action to bring about a timely cleanup consistent with the goals of the Natural River designation (see enclosures). Please obtain a copy and make it a part of the public comment record. I could not find any reference regarding this act in the draft RI/FS submitted by the liable parties. The Natural Rivers Plan for the Kalamazoo legally binds the MDEQ and MDNR to make realistic progress in an assertive manner. Further, it requires that more restrictive standards become a part of the final solution.

I am deeply concerned about the poor quality of this document/report. Clearly the liable companies, Georgia Pacific Corp., Plainwell Paper Co., Allied Paper Co./Parent HM Holdings, and Fort James Corp. feel free to submit documents of such poor quality without fear or concern of possible environment enforcement from the MDEQ. For example, stipulated penalties for numerous delays on the part of the liable parties for failure to produce dozens of legally related Superfund documents in a timely and

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professional manner have never been assessed. Also, the Director and/or Al Howard grant delays based on little if any merit upon request by the liable parties. I have enclosed a copy of the RI/FS completion Schedule as of November 1995, which indicated that the proposed plan, and Record of Decision was to be completed in 1997. The 1995 schedule was granted a previous extension as well. These delays could have been avoided had the MDEQ complied with the Superfund requirements and/or followed our recommendations regarding the workplan and the RI/FS process. Further compounding the delay problem is the failure of MDEQ staff to provide written documents specifying required actions with appropriate deadlines for completing the reports. This intentional disregard for the Administrative Order of Consent and provisions of CERCLA that require the lead agency, (here the MDEQ) to provide written directives with established deadlines leaves the public with the belief that the polluters are in total control of the process and dumbfounded as to why such abuses of discretion are allowed. These verbal demands by the MDEQ to the liable parties must provide substantial entertainment to the liable party's attorneys. Frankly, who else in the environmental administration business world conducts their affairs in such an irresponsible manner?

The following highlights only a few of the major, and far too many, false assumptions and misleading information contained in the RI/FS. **Please review the enclosed Site Fact Sheet # 2 (12 pages) for a more detailed review and give it equal weight as part of the KRPA comments/recommendations as well.** For example, the plan is based on the assumption that the three MDNR dams at the former impoundments, Trowbridge, Otsego and Plainwell and the dams at Lake Allegan, the City of Allegan and Otsego Dams will remain in place forever, an unlikely situation. The RI/FS ignores the long awaited fishery and management plan for the Kalamazoo River Allegan upstream to Kalamazoo, which has been held hostage to the failure of the polluters, the liable parties, to cleanup the toxic waste in the river in our community. The polluter's assumption that so called "clean sediment" will cover up the PCB waste is incorrect and amounts to junk science. The sediment data clearly shows that the highest concentrations are in the top 2-4 inches. Their assumption that the levels of PCBs in fish have declined significantly is not supported by good science. Suggestions that access to the river is not possible ignores the fact that property easements or outright purchase of land can be obtained.

The RI/FS ignores the existing ecological risk assessment and is far from being in compliance with the Administrative Order of Consent signed by the liable parties back in 1990. The RI/FS fails to meet the minimal standards under the Superfund Act, Rules, and Regulations as well. It is time the MDEQ took charge of this site, perhaps the worst toxic site in the Great Lakes Basin. If the MDEQ is unwilling to act reasonably in the immediate future, then EPA should step in with the appropriate staff to complete all remaining documents including the RI/FS, Proposed Plan, and Record of Decision. Further, the liable parties in their Feasibility Study portion of the RI/FS failed to come up with a meaningful cleanup alternative that meets the requirements of the Superfund law;

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despite numerous assurances from the MDEQ staff to the KRPA and the public that such an alternative based on our prior recommendations would be a required alternative to be evaluated. Given the long history of stalling by the polluters at this site, immediate action is now needed to restore our faith in the MDEQ and your office.

Please consider fully the following recommendations:

The completion of the Phase I- RI/FS for the river from Lake Allegan upstream thru the City of Kalamazoo should be immediately taken away from the liable parties/polluters and be completed by the MDEQ consistent with the Administrative Order of Consent (AOC). The AOC provides the MDEQ with the legal authority to complete the RI/FS and other documents where it has been clearly demonstrated the polluter's efforts have been inadequate. Also, the Phase II-RI/FS for the River downstream of Lake Allegan to Saugatuck, barely started, should be completed by the MDEQ and not the liable parties to avoid another likely 5-8 year delay.

Importantly, a complete and accurate evaluation of our proposed recommended Cleanup Alternative (Preferred Remedy) needs to be evaluated fully (including costs and technologies) in the final RI/FS and be the foundation for the Proposed Plan consistent with the following guidelines.

Also, cleanup standards must be consistent with the wildlife ecological risk assessment, human health assessment, and the protection of property values. All PCB contaminated waste must be removed from the river and disposed of off site in approved landfills. No landfills should be allowed adjacent to the river, within the areas of the DNR impoundments, Lake Allegan or the backwaters above the City of Allegan and Otsego dams. Dry excavation (dry dredging) and wet dredging cost and technologies should be reviewed with the assumption that remedial actions will take place concurrently at all six impoundments. All wetlands and other significant natural resources must be restored.

In addition, remedial action must be consistent with the long-term fisheries and wildlife management plans (since the early 1970's) to improve the river's fishery, recreation, and tourism opportunities by complete removal of the three MDNR dams. The polluters plan of "natural attenuation" the let nature take its course plan and to just "stabilize" the banks of the DNR impoundments with riprap and to leave Lake Allegan and the rest of the river as a permanent toxic waste dump is simply absurd. It is adverse to wildlife, human health, property values, recreational and tourism potential and is contrary to the long-term community management plan for the river. It must not be allowed.

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Further, remedial (clean up) action should begin concurrently at Lake Allegan and the five impoundments upstream to avoid decades of delay.

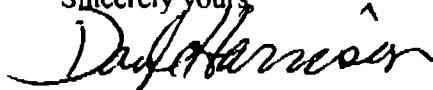
Finally, the RI/FS for Phase I should be completed by June 30, 2001 and the final RI/FS for Phase II, (Saugatuck to Lake Allegan Dam) by September 30, 2001. Proposed Plans should be completed within two months of the final RI/FS.

Enclosed are articles written by James J. Hahnenberg and Susan Pastor regarding the long-term benefits of dredging that are to be made a part of our comments.

Find enclosed a copy of the KRPA's progress review schedule report dated January 29, 2001 for the site, which clearly demonstrates the utter failure of the MDEQ's environmental enforcement. For example, of 31 tasks with due dates established in February of 2000 by MDEQ and agreed to by EPA, only two have been completed to date, one of which is this so called Draft Phase One RI/FS.

Also, as I discussed with Al Howard, I would like to remind you of the need to give the municipalities a little more time to get their resolutions forwarded to you. I appreciate this opportunity and look forward to hearing from you. Please advise me timely of your position. Thank you for your interest in the outcome of this spectacular resource, the Kalamazoo River.

Sincerely yours,



Dayle L. Harrison

Governor John Engler - MDEQ Director, Russell Harding
David A. Ulrich, Acting Administrator, US EPA Region V
State Senator William Van Regenmorter and Dale Shugars
State Representatives Patty Birkholz, Alexander Lipsey, Jerry VanderRoest, Tom George
US Senators Carl Levin and Debbie Stabenow,
US Representatives Peter Hoekstra and Fred Upton
Attorney General Jennifer M. Grandholm
National Wildlife Federation
Michigan United Conservations Clubs
Environmental Defense
Natural Resources Defense Council
Sierra Club
National Audubon
American Rivers

Resolution in support of the appropriate cleanup (preferred remedy) and restoration of the Kalamazoo River and Comments on the Remedial Investigation/Feasibility Study

Whereas, the cleanliness of Kalamazoo River and Lake Michigan are critical to the well being of human health, the environment, wildlife, recreation, property values and tourism interest of our community, and

Whereas, the Kalamazoo River (official site name is Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site) has been on the National Priorities List under the National Superfund Act (Comprehensive Environmental Response Compensation, and Liability Act of 1980) since 1990 and at or near top of Michigan's Environmental Protection List since 1985, and

Whereas, there are approximately 300,000 pounds of PCBs, a persistent toxic cancer causing chemical, in approximate six (6) million cubic yards of river sediments, and fish consumption advisories have been in place since 1976 and will continue far into the future until the PCBs are removed from the River. Bald eagles and other wildlife are not reproducing, and

Whereas, in 1990 the liable parties, referred to as Potentially Responsible Parties (PRP's) under the Superfund Act, and the Michigan Department of Environmental Quality (MDEQ) entered into an Administrative Order of Consent (AOC) that granted the companies the opportunity to complete the Remedial Investigation and Feasibility Study (RI/FS) for the river and other documents and that a draft RI/FS for the river upstream from Lake Allegan to Comstock was finally submitted in November of 2000 (about 6 years past due), and

Whereas, the liable parties current names are Georgia Pacific Corp., Plainwell Paper, Inc., Fort James Corp., and Allied Paper Inc., (parent Company HM Holdings, Inc.), and the RI/FS completed by the PRP's is self-serving, incomplete, factually inaccurate and includes two volumes of information submitted without MDEQ review and oversight in violation of the AOC and Superfund laws.

Whereas, the preferred remedy submitted by the liable parties (PRP's) in their draft Feasibility Study (FS) is woefully inadequate and would leave Lake Allegan, the impounded area above the City of Allegan dam, the dam in Otsego City and the three Trowbridge Otsego and Plainwell dams owned by the Michigan Department of Natural Resources (MDNR) as permanent toxic PCB disposal dumps in the river, and

Whereas, the cleanup and removal of the contamination and protection of human health of sportsman and their families, tourism, wildlife, and the well being of future generations of our community are of paramount importance, and

Now, therefore be it resolved that the _____ is in full support of the following recommendations and request that they be reviewed, evaluated, and included in the public record in the final RI/FS and future Proposed Plans.

It is further resolved that:

The responsibility for completion of the Phase I-RI/FS for Lake Allegan upstream to Morrow Pond should be immediately taken away from the polluters and be completed by the MDEQ consistent with the Administrative Order of Consent which provides the MDEQ with the authority to complete the RI/FS and other documents where it has been clearly demonstrated the polluters efforts have been inadequate. Also, the Phase II - RI/FS for the River downstream of Lake Allegan to Saugatuck, barely started, should be completed by the MDEQ and not the liable parties.

The following Recommended Cleanup Alternative (Preferred Remedy) guidelines need to be evaluated and reviewed and included in the final RI/FS and Proposed Plan

Cleanup standards must be consistent with the wildlife ecological risk assessment, human health assessment, and the protection of property values. All PCB contaminated waste must be disposed of off site in approved landfills. No landfills should be allowed adjacent to the river, in the DNR impoundments, Lake Allegan and the backwaters above the City of Allegan dam and the dam located in Otsego. All wetlands and other significant natural resources must be restored as part of the final remedial action.

Remedial action must be consistent with the long-term fisheries and wildlife management plans (since the early 1970's) to improve the river's fishery, recreation, and tourism opportunities by complete removal of the three MDNR dams.

The liable parties plan "to let nature takes its course" and to just stabilize the banks of the DNR impoundments with riprap and to leave Lake Allegan and the rest of the river as a permanent toxic waste dump is not appropriate. It is adverse to wildlife, human health, property values, recreational and tourism potential and is contrary to the long-term community management plan for the river and must not be allowed.

Remedial action should begin concurrently at Lake Allegan and the impoundments upstream. The final RI/FS for Phase I should be completed by June 30, 2001 and the final RI/FS for phase II, (Saugatuck to Lake Allegan Dam) by September 30, 2001.

The forgoing resolution is offered by _____
And supported by _____

Dated: _____

Clerk or designated person